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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 160202070-6070-01]**

**RIN 0648-XE427**

**Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Adjustment of Georges Bank and Southern New England/Mid-Atlantic Yellowtail Flounder Annual Catch Limits**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; adjustment of annual catch limits.

**SUMMARY:** This action transfers unused quota of Georges Bank and Southern New England/Mid-Atlantic yellowtail flounder from the Atlantic scallop fishery to the Northeast multispecies fishery for the remainder of the 2015 fishing year. This quota transfer is justified when the scallop fishery is not expected to catch the entire allocation of either stock of yellowtail flounder. The quota transfer is intended to provide additional harvest opportunities for groundfish vessels to help achieve the optimum yield for these stocks while ensuring sufficient amounts of yellowtail flounder are available for the scallop fishery.

**DATES:** Effective April 18, 2016, through April 30, 2016.

**FOR FURTHER INFORMATION CONTACT:** Aja Szumylo, Fishery Policy Analyst, 978-281-9195.

**SUPPLEMENTARY INFORMATION:** NMFS is required to estimate the total amount of yellowtail flounder catch from the scallop fishery by January 15 each year. If the scallop fishery is expected to catch less than 90 percent of its Georges Bank (GB) or Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder sub-ACL, the Regional Administrator (RA) has the authority to reduce the scallop fishery sub-annual catch limit (sub-ACL) for these stocks to the amount projected to be caught, and increase the groundfish fishery sub-ACL for these stocks up to the amount reduced from the scallop fishery. This adjustment is intended to help achieve optimum yield for these stocks, while not threatening an overage of the ACLs for the stocks by the groundfish and scallop fisheries.

Based on the most current available data, we project that the scallop fishery will have unused quota in the 2015 fishing year. We expect that the scallop fishery will catch up to 30 mt of GB yellowtail flounder, or 79 percent of its 2015 fishing year sub-ACL, and up to 44 mt of SNE/MA yellowtail flounder, or 66 percent of its 2015 fishing year sub-ACL. Because the scallop fishery is not expected to catch its entire allocation of GB and SNE/MA yellowtail flounder, this rule reduces the scallop sub-ACL for both stocks to the upper limit projected to be caught, and increases the groundfish sub-ACLs for these stocks by the same amount, effective April 18, 2016, through April 30, 2016.

This results in a transfer of 7.9 mt of GB yellowtail flounder and 22.3 mt of SNE/MA yellowtail flounder, from the scallop fishery to the groundfish fishery. Table 1 summarizes the revisions to the 2015 fishing year sub-ACLs, and Table 2 shows the revised allocations for the groundfish fishery as allocated between the sectors and common pool based on final sector membership for fishing year 2015. This transfer is based on the upper limit of expected yellowtail flounder catch by the scallop fishery, which is expected to minimize any risk of an

ACL coverage by the scallop fishery while still providing additional fishing opportunities for groundfish vessels.

Table 1. Georges Bank and Southern New England/Mid-Atlantic Yellowtail Flounder Sub-ACLs (in metric tons)

Stock	Fishery	Initial sub-ACL (mt)	Change (mt)	Revised sub-ACL (mt)	Percent change
GB Yellowtail Flounder	Groundfish	195	+7.9	202.9	+4%
	Scallop	38.0	-7.9	30.1	-21%
SNE/MA Yellowtail Flounder	Groundfish	557	+22.3	579.3	+4%
	Scallop	66.0	-22.3	43.7	-34%

Table 2. Allocations for Sectors and the Common Pool (in pounds)

Stock	GB Yellowtail Flounder		SNE/MA Yellowtail Flounder	
Sector Name	Original	Revised	Original	Revised
Fixed Gear Sector	60	63	4,537	4,719
Maine Coast Community Sector	15	16	8,095	8,419
Maine Permit Bank	59	62	390	405
Northeast Coast Communities Sector	3,594	3,739	8,826	9,179
Northeast Fishery Sector I	0	0	0	0
Northeast Fishery Sector II	8,197	8,529	17,162	17,849
Northeast Fishery Sector III	197	205	5,014	5,214
Northeast Fishery Sector IV	9,296	9,672	28,813	29,966
Northeast Fishery Sector V	5,420	5,639	253,651	263,807
Northeast Fishery Sector VI	11,622	12,093	64,600	67,186
Northeast Fishery Sector VII	44,912	46,732	53,151	55,279
Northeast Fishery Sector VIII	41,896	43,593	66,703	69,374
Northeast Fishery Sector IX	115,114	119,778	96,962	100,844
Northeast Fishery Sector X	7	7	6,724	6,993
Northeast Fishery Sector XI	7	7	240	249
Northeast Fishery Sector XIII	106,377	110,687	228,053	237,183
New Hampshire Permit Bank	0	0	0	0
Sustainable Harvest Sector 1	3,974	4,135	5,343	5,557
Sustainable Harvest Sector 3	70,954	73,828	127,312	132,409
All Sectors Combined	421,701	438,785	975,574	1,014,632
Common Pool	8,200	8,533	252,401	262,506

## Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has determined that the management

measures implemented in this final rule are necessary for the conservation and management of the Northeast multispecies fishery and consistent with the Magnuson-Stevens Act, and other applicable law.

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The NMFS Assistant Administrator finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment for this in season sub-ACL adjustment because notice and comment would be impracticable and contrary to the public interest. Because NMFS is required to project GB and SNE/MA yellowtail flounder catch in the scallop fishery on or around January 15 of each year, there is insufficient time to allow for prior public notice and comment for the transfer of quota for these yellowtail flounder stocks from the scallop fishery to the groundfish fishery. The NE multispecies fishing year ends on April 30, 2016. If NMFS allowed for the time necessary to provide for prior notice and comment, it would be unlikely that the transfer would occur in time to allow groundfish vessels to harvest the additional quota of these stocks before the end of the fishing year. As a result, groundfish fishermen would be prevented from offsetting their current negative economic circumstances due to the severe decreases in ACLs of several important groundfish stocks, thus undermining the intent of the rule. Giving effect to this rule as soon as possible will help relieve fishermen from more restrictive ACLs for the yellowtail stocks and help achieve optimum yield in the fishery. For these same reasons, the NMFS Assistant Administrator also finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action for these same reasons. Further, there is no need to allow the industry additional time to adjust to this rule

because it does not require any compliance or other action on the part of individual scallop or groundfish fishermen.

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and one has not been prepared.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: March 15, 2016.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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